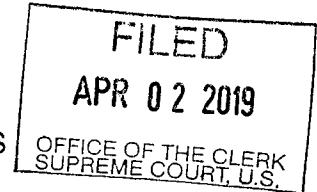


No. 18-8716

ORIGINAL

IN THE
SUPREME COURT OF THE UNITED STATES



Sean M. Donahue — PETITIONER
(Your Name)

vs.
**PENNSYLVANIA DEPARTMENT OF LABOR
& INDUSTRY AND THE GOVERNOR OF** — RESPONDENT(S)
PENNSYLVANIA

ON PETITION FOR A WRIT OF CERTIORARI TO

Commonwealth Court of Pennsylvania

(NAME OF COURT THAT LAST RULED ON MERITS OF YOUR CASE)

PETITION FOR WRIT OF CERTIORARI

Sean M. Donahue

(Your Name)

625 Cleveland Street

(Address)

Hazleton, PA 18201

(City, State, Zip Code)

570-454-5367

(Phone Number)

QUESTION(S) PRESENTED

1. WHAT IS THE US JOBS FOR VETERANS ACT (Public Law 107–288, 107th Congress)?

2. WHAT SERVICES ARE OWED TO ALL VETERANS BY STATES THAT ACCEPT FEDERAL FUNDING UNDER THE US JOBS FOR VETERANS ACT((Public Law 107–288, 107th Congress)?

LIST OF PARTIES

- ☒ All parties appear in the caption of the case on the cover page.
- ☐ All parties **do not** appear in the caption of the case on the cover page. A list of all parties to the proceeding in the court whose judgment is the subject of this petition is as follows:

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TABLE OF AUTHORITIES CITED

CASES

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This is a first impression case.

STATUTES AND RULES

US Jobs For Veterans Act, Public Law 107 - 288

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Workforce Innovation and Opportunities Act

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IN THE
SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

☐ For cases from **federal courts**:

The opinion of the United States court of appeals appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

The opinion of the United States district court appears at Appendix _____ to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☐ is unpublished.

☒ For cases from **state courts**:

The opinion of the highest state court to review the merits appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

The opinion of the Commonwealth Court of Pennsylvania appears at Appendix A to the petition and is

- ☐ reported at _____; or,
☐ has been designated for publication but is not yet reported; or,
☒ is unpublished.

JURISDICTION

☐ For cases from **federal courts**:

The date on which the United States Court of Appeals decided my case was _____.

☐ No petition for rehearing was timely filed in my case.

☐ A timely petition for rehearing was denied by the United States Court of Appeals on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

☒ For cases from **state courts**:

The date on which the highest state court decided my case was **March 29, 2019**.
A copy of that decision appears at Appendix **B**.

☐ A timely petition for rehearing was thereafter denied on the following date: _____, and a copy of the order denying rehearing appears at Appendix _____.

☐ An extension of time to file the petition for a writ of certiorari was granted to and including _____ (date) on _____ (date) in Application No. ____ A ____.

The jurisdiction of this Court is invoked under 28 U. S. C. § 1257(a).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

US Jobs for Veterans Act (Public Law 107-288, 107th Congress)

(See Full Copy of the Act Attached in Appendix F).

STATEMENT OF THE CASE

The state of Pennsylvania accepts annual funding under the US Jobs for Veterans Act (Public Law 107–288, 107th Congress), which requires Pennsylvania to provide federally funded priority job placement services to all veterans, not just some veterans. Pennsylvania does not provide these services.

The Petitioner now seeks *certiorari* in the Supreme Court of the United States and further requests to argue the case himself so that the Court can hear directly from a veteran who derives no real benefit whatsoever from the very expensive US Labor Department benefit programs for veterans.

The Petitioner asks this court to (1) freeze all federal funding to Pennsylvania under the Jobs for Veterans Act; (2) define, once and for all, what obligations a state that accepts federal funding under the US Jobs For Veterans Act has to all veterans; (3) define what obligations the state of Pennsylvania has to the Petitioner.

HISTORY OF EVENTS

On July 31, 2018, the Petitioner filed a Petition for Review in the Commonwealth Court of Pennsylvania under its original jurisdiction over state agencies (42 Pa. C.S. §761 (a)(1)). Thus, the state appellate court served as the trial court.

Only a state agency can be tried for the first time by a tribunal court (PA Const. Art, 1 § 15). An individual cannot be tried in a tribunal.¹

On December 27, 2018, the Commonwealth Court of Pennsylvania dismissed the instant case, which is the subject of this appeal (Appendix A).

On December 30, 2018, the Petitioner, not a lawyer, filed a timely petition for reargument with the Commonwealth Court of Pennsylvania, which was denied on January 16, 2019 and

¹ Yet, in 2012, the state of Pennsylvania attempted to sue the Petitioner three times in the Commonwealth Court of Pennsylvania at Dockets 977 CD 2012, 976 CD 2012 and 376 MD 2012 (10 MAP 2013). The Commonwealth court dismissed the Petitioner as party to the lead case (376 MD 2012). The sister cases, 977 CD 2012 & 976 CD 2012 were ultimately withdrawn but only after the Pennsylvania Governor's office won the lead case. Had it lost, PA likely would have continued to pursue the other two cases.

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docketed on January 17, 2019 by the Commonwealth Court of Pennsylvania (Appendix B).

On February 16, 2019 and again in February 17, 2019, the Petitioner filed an appeal with the state court of last resort, the Pennsylvania Supreme Court. The PA Supreme Court assigned temporary docket numbers 72 MT 2019 and 83 MT 2019 (Appendix C).

On February 19, 2019 and February 22, 2019, the prothonotary of the Pennsylvania Supreme Court administratively dismissed the appeals as untimely, citing that in this case, because the Commonwealth Court of Pennsylvania was the trial court, the verdict had to be appealed to the next higher appellate court within 30 days of the initial verdict, not within 30 days of the denial of the reargument (Appendix C).

The prothonotary informed the Petitioner that he could petition for leave to proceed *nunc pro tunc* (Appendix C), which he did on February 23, 2019 at 16 MM 2019.

On March 29, 2019, the Supreme Court of Pennsylvania denied the Petitioner leave to proceed *nunc pro tunc* at 16 MM 2019 (Appendix D).

PARALLEL TIMELINE

During the same timeframe, the Petitioner asked several senior officials at the US Department of Labor to issue a policy statement stating exactly what services are owed to all veterans by states that accept funding under the US Jobs For Veterans Act. The Petitioner also submitted a FOIA request for a copy of any already existing policy statements on the matter.

The responses provided by Senior US Department of Labor officials from several states and from Washington D.C. evaded the question. The USDOL response to the FOIA request was also evasive (Appendix E). No federal response served to answer the questions being raised in this appeal.

REASONS FOR GRANTING THE PETITION

The Petitioner avers that this Court should take the Petitioner's application for reargument at the trial court to be synonymous to a post sentencing motion procedure that would have tolled the clock in any case involving the trial of an individual. The prothonotary of the Supreme Court of Pennsylvania claimed that the appeal of the verdict was due 30 days from the verdict, not 30 days from the denial of reconsideration of the verdict (Appendix C). The *pro se* Petitioner, having petitioned this court for *certiorari* in the past knows that this court prefers that petitioners first seek reargument in state courts. However, in this case, seeking reargument in the state appellate courts was wrongfully punished by the state court of last resort.

By dismissing the case, the state tribunal court and the state Supreme Court circumvented their obligation to decide what the law means (*Marbury v. Madison*, 5 U.S. (1 Cranch) 137 (1803)). Specifically, the state appellate court avoided backing the state

into a corner that obligated it to provide federally funded priority job placement services and referrals to all veterans.

The reason the Commonwealth Court of Pennsylvania dismissed the instant case was because the Petitioner requested that his name be included on "Veterans Priority Job Referral Lists". The state argued, and the state tribunal court found, that the US Jobs For Veterans Act does not require a state to generate "referral lists" (Appendix A).

The Petitioner argued that the Act does require states to provide veterans priority job placement and referral services to all veterans. The Petitioner also argued that because the Petitioner is an unemployed honorably discharged veteran, he is entitled to such services.

The use of the word "list" was a question of semantics, not a question of law. The Commonwealth Court of Pennsylvania wrongfully treated the state's objections to the Petitioner's use of the word "list" as a question of law, when it clearly did not rise to that level. The same state appellate court also ignored the Petitioner's questions, which were indeed questions of law.

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The question of what a state's obligations are under the US Jobs For Veterans Act is a question of law that the state court of last resort and the state tribunal court failed to answer. It is therefore now the obligation of the Supreme Court of the United States to decide "what the law is" (*Marbury v. Madison supra*).

In the instant case, the only way for the Court to meet its obligation is for this Court to clearly define what services are owed to all veterans by states that accept federal funding under the US Jobs For Veterans Act. This Court must issue an opinion stating what the US Jobs For Veteran Act "is" (*Marbury v. Madison supra*), what obligations the state has to all veterans and what obligations the state has to the Petitioner.

CONCLUSION

The petition for a writ of certiorari should be granted.

The foregoing document is true in both fact and belief and submitted under penalty of perjury.

Respectfully Submitted,

April 2, 2019
Date

Sean M. Donahue
Sean M. Donahue